

Decision for dispute CAC-UDRP-103877

Case number CAC-UDRP-103877

Time of filing 2021-06-21 10:10:05

Domain names arcelormittal.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization ARCELORMITTAL (SA)

Complainant representative

Organization Nameshield (Enora Millocheau)

Respondent

Name Mineserver Mineown

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark n° 947686 ARCELORMITTAL® registered on August 3, 2007.

The Complainant also owns <arcelormittal.com> registered since January 27, 2006.

FACTUAL BACKGROUND

The Complainant is the largest steel producing company in the world and is the market leader in steel for use in automotive, construction, household appliances and packaging with 71.5 million tonnes crude steel made in 2020. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The disputed domain name <arcelormittal.com> was registered on June 16, 2021 and resolves to the Complainant's official website <https://corporate.arcelormittal.com/>.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant states that the disputed domain name <arcelormirttal.com> is confusingly similar to its trademark ARCELORMITTAL®.

The misspelling of the trademark ARCELORMITTAL® in the disputed domain name is not sufficient to escape the finding that the domain name is confusingly similar to the trademark ARCELORMITTAL®.

This is a clear case of "typosquatting", i.e. the disputed domain name contains an obvious misspelling of the Complainant's trademark. Previous panels have found that slight spelling variations do not prevent a disputed domain name from being confusingly similar to the Complainant's trademark.

Complainant draws Panel's attention to prior UDRP cases:

- CAC Case No. 102360, ARCELORMITTAL (SA) v. Milton Liquors ILC <arcelormittall.com>;
- CAC Case No. 102346, ARCELORMITTAL (SA) v. Sani Cermaic <acelormitall.com>;
- CAC Case No. 102319, ARCELORMITTAL (SA) v. Sheila Prince NA <arcelormiittall.com>.

It is well established that TLDs may typically be disregarded in the assessment under paragraph 4(a)(i) of the Policy when comparing disputed domain names and trademark.

WIPO Overview 3.0, section 1.11 ("The applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.").

Consequently, the disputed domain name <arcelormirttal.com> is confusingly similar to Complainant's trademark ARCELORMITTAL®.

According to WIPO Case No. D2003-0455 Croatia Airlines d. d. v. Modern Empire Internet Ltd., the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Complainant asserts that the Respondent is not known as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name. Please see for instance Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy 4(c)(ii).").

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name <arcelormirttal.com> and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor does it have any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark ARCELORMITTAL®, or apply for registration of the disputed domain name by the Complainant.

The disputed domain name is a typosquatted version of the trademark ARCELORMITTAL®. Typosquatting is the practice of

registering a domain name in an attempt to take advantage of Internet users' typographical errors and can evidence that a respondent lacks rights and legitimate interests in the domain name. Please see Forum Case No. 1597465, The Hackett Group, Inc. v. Brian Hems / The Hackett Group ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy 4(a)(ii).").

Furthermore, the disputed domain name redirects to the Complainant's official website <https://corporate.arcelormittal.com>. This is not a bona fide offering of goods or services or a legitimate non-commercial or fair use of it.

The Respondent has no right or legitimate interest in respect of the disputed domain name <arcelormirttal.com>.

The Complainant's trademark ARCELORMITTAL® is widely known. Past panels have confirmed the notoriety of the trademark ARCELORMITTAL® in the following cases:

- CAC Case No. 101908, ARCELORMITTAL v. China Capital ("The Complainant has established that it has rights in the trademark "ArcelorMittal", at least since 2007. The Complainant's trademark was registered prior to the registration of the disputed domain name (February 7, 2018) and is widely well-known.");
- CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd ("The Panel is convinced that the Trademark is highly distinctive and well-established.").

Given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark.

WIPO Case No. DCO2018-0005, ArcelorMittal SA v. Tina Campbell ("The Panel finds that the trademark ARCELORMITTAL is so well-known internationally for metals and steel production that it is inconceivable that the Respondent might have registered a domain name similar to or incorporating the mark without knowing of it.").

Moreover, the Complainant states the misspelling of the trademark ARCELORMITTAL® was intentionally designed to be confusingly similar with the Complainant's trademark. Previous UDRP panels have seen such actions as evidence of bad faith. Please see Forum Case No. FA 877979, Microsoft Corporation v. Domain Registration Philippines ("In addition, Respondent's misspelling of Complainant's MICROSOFT mark in the <microsoft.com> domain name indicates that Respondent is typosquatting, which is a further indication of bad faith registration and use pursuant to Policy 4(a)(iii).").

Finally, the disputed domain name redirects to the Complainant's official website <https://corporate.arcelormittal.com/>. Thus, the Complainant contends that the Respondent had knowledge of the Complainant's rights prior to the registration of the disputed domain name, which is a hallmark of bad faith. Please see Forum Case No. FA 1382148, Verizon Trademark Servs. LLC v. Boyiko ("The Panel finds that Respondent's registration and use of the confusingly similar disputed domain name, even where it resolves to Complainant's own site, is still registration and use in bad faith pursuant to Policy 4(a)(iii).").

Consequently, the disputed domain name has been registered by the Respondent in an effort to take advantage of the good reputation Complainant had built up in its ARCELORMITTAL® trademarks, with the sole aim to create a likelihood of confusion with the Complainant's trademarks and domain names.

On those facts, the Complainant contends that Respondent has registered the disputed domain name <arcelormirttal.com> and is using it in bad faith.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The disputed domain name registered in 2021 is confusingly similar to the Complainant's trade mark consisting of a slight misspelling of the Complainant's trade mark adding only a single letter 'r' and the gTLD .com which do not prevent said confusing similarity.

The disputed domain name has been pointed to the Complainant's own web site which is not a bona fide offering of goods or services or a legitimate non commercial or fair use under the Policy as it is likely to cause the disputed domain name to be associated with the Complainant when it is not.

Typosquatting is an indication of bad faith per se under the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **ARCELORMITTAL.COM**: Transferred
-

PANELLISTS

Name	Dawn Osborne
------	--------------

DATE OF PANEL DECISION 2021-07-16

Publish the Decision
